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Remarks

In a FINAL Office Action dated 20 November 2003, the Examiner rejected claims 1-12 under 35 U.S.C. §102(b) as being anticipated by Published EPO patent application WO 99/41853 (Kim Patent), noting with respect thereto:

Regarding claims 1 and 7, Kim discloses a CDMA communication system, which provides a dedicated control channel capable of efficiently communicating control messages between a base station and mobile station. Kim further discloses a means for storing the data generated by the terminal and further segmenting the data in the core unit to include payload of pre-determined size. Kim further discloses a method for selecting a dedicated control channel and a packet traffic channel/supplemental channel. Kim further discloses a method of packaging the core unit into a RLP frame. See Fig. 5, abstract, summary of invention, page 17, lines 10-16, page 21, lines 11-15.

Applicant's arguments filed 8/11/03 have been fully considered but they are not persuasive. The applicant is drawn to the reference Kim [WO 99/41853] where it is disclosed that a control channel is assigned to mobile stations using the packet data service and in exceptional cases the dedicated control channel may be used together with the voice traffic channel for high quality service. See page 12, lines 8-18. Since the control channel is assigned to "mobile stations" and not to any one particular mobile station, it is clear that the control channel is also assigned to the mobile station that is active and may be used together with the voice traffic channel for high quality service. This has been addressed in the Final office action mailed on 3/26/03, page 3, paragraph 3.

Applicant has reviewed the cited Kim Patent and the Examiner's clearly stated grounds for rejection and has further amended the independent claims 1, 7 to more precisely define the structure that distinguishes Applicant's invention from the cited Kim Patent and to thereby traverse the Examiner's rejection of claims 1-12.

The cited Kim Patent teaches a CDMA communication system that implements a dedicated fundamental channel for transmitting voice data, a dedicated supplemental channel for transmitting packet data and a dedicated control channel for transmitting control messages (page 11, lines 2-12). The Kim communication system provides a dedicated control channel that extends from the base station to the mobile station for transporting control messages therebetween. The control messages can be inserted into a frame of one of two predetermined lengths (page 14, lines 14-21).

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In addition, the dedicated traffic channel performs a number of functions, one of which includes the delivering of packet data-related control messages (page 15, lines 13-17). However, when the dedicated traffic channel is not established and packet data cannot be exchanged between the base station and the mobile station (page 17, lines 10-16), the Kim communication system enables a user packet to be transmitted as a single brief packet (page 21, lines 11-15) over the dedicated control channel of a presently active radio link being used by another mobile station (page 12, lines 8-18). There is no teaching in the cited Kim Patent that enables the Kim communication system to use the dedicated control channel for transmitting user data when there exists a presently active radio link in use by the mobile station and the Kim communication system can only use another subscriber's radio link to forward a brief burst of data over the dedicated control channel of that radio link.

In contrast, Applicant's radio link protocol framing system receives data from the subscriber's terminal equipment, such as a personal computer PC, and stores this data in a buffer for transmission over the presently active radio link, that implements a dedicated fundamental channel for transmitting voice data, a dedicated supplemental channel for transmitting packet data and a dedicated control channel for transmitting control messages, to the base station. The data transmission rate required to support this link is a function of the volume of data generated by the personal computer PC and/or required to be downloaded to the personal computer PC. The Radio Link Protocol framing system packages the data into Core Units via Core Unit Protocol Handler for transmission over the Dedicated Control Channel and/or the Supplementary Channel (page 9, lines 4-11) of the presently active radio link being used by the subscriber's terminal equipment, depending on the volume of the user data traffic that is available for transmission. This structure is not disclosed or suggested by the cited Kim Patent. Applicant has amended the independent claims 1, 7 to recite this structure in these independent claims: both the presence of an active radio link from the subscriber's mobile wireless station set to the communication system and the use of the dedicated control channel of the subscriber's presently active radio link to transmit data. Applicant believes that these amendments render claims 1, 7 allowable under 35 U.S.C. §102(b) over the cited Kim

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Patent. Applicant also believes that claims 2-6, 8-12 are allowable under 35 U.S.C. §102(b) over the cited Kim Patent because they depend on allowable base claims.

Applicant requests a Notice of Allowance in this application in light of the amendments and arguments set forth herein. The undersigned attorney requests Examiner Sharma to telephone if a conversation could expedite the prosecution of this application. Applicant authorizes the Commissioner to charge any additionally required payment of fees to deposit account #50-1848.

Respectfully submitted,
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Dated: 1/20/04

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